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Honorable Timothy W. Dore  
Chapter 7  
Hearing Location: Seattle, Rm. 8106  
Hearing Date: February 23, 2024  
Hearing Time: 9:30 a.m.  
Response Date: February 16, 2024

UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

In re:

WIRELESS ADVOCATES, LLC

Debtor.

Case No. 23-10117-TWD

**CHAPTER 7 TRUSTEE'S FIFTH  
MOTION FOR ENTRY OF AN ORDER,  
PURSUANT TO 11 U.S.C. § 365(d),  
EXTENDING TIME TO ASSUME OR  
REJECT EXECUTORY CONTRACTS**

Virginia Burdette, Chapter 7 Trustee (the "Trustee") for Wireless Advocates, LLC (the "Debtor"), files this fifth motion (the "Motion") seeking the entry of an Order, pursuant to 11 U.S.C. § 365(d), extending the Trustee's time to assume or reject certain executory contracts of the Debtor from January 31, 2024 through and including April 15, 2024, and for such other, further relief as the Court may deem just and proper, and respectfully sets forth and represents as follows:

**BACKGROUND**

1. The Debtor was a provider of wireless products and services both online and in retail locations. The Debtor's business included selling phones and services for AT&T, T-Mobile, and Verizon via kiosks in retail locations, such as Costco, and on military bases at various locations across the country.

2. On January 23, 2023, certain petitioning creditors filed an involuntary bankruptcy petition against the Debtor under chapter 7 of the Bankruptcy Code.

3. On February 27, 2023, an order for relief was entered, Dkt. No. 91, and the Trustee was

CHAPTER 7 TRUSTEE'S FIFTH MOTION FOR  
ENTRY OF AN ORDER, PURSUANT TO 11 U.S.C. §  
365(d), EXTENDING TIME TO ASSUME OR REJECT  
EXECUTORY CONTRACTS - 1  
507387556.2

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1 appointed as the trustee of the Debtor's estate pursuant to Section 701 of the Bankruptcy Code, Dkt.  
2 No. 92.

3 4. On May 17, 2023, the Court entered an Order Granting Chapter 7 Trustee's Motion for  
4 Entry of an Order, Pursuant to 11 U.S.C § 365(d), Extending Time to Assume or Reject Executory  
5 Contracts Through and Including July 31, 2023, Dkt. 236.

6 5. On August 22, 2023, the Court entered an Order Granting Chapter 7 Trustee's Second  
7 Motion for Entry of an Order, Pursuant to 11 U.S.C. § 365(d), Extending Time to Assume or Reject  
8 Executory Contracts Through and Including September 15, 2023, Dkt. 322.

9 6. On October 17, 2023, the Court entered an Order Granting Chapter 7 Trustee's Third  
10 Motion for Entry of an Order, Pursuant to 11 U.S.C. § 365(d), Extending Time to Assume or Reject  
11 Executory Contracts Through and Including November 30, 2023, Dkt. 350.

12 7. On January 3, 2024, the Court entered an Order Granting Chapter 7 Trustee's Fourth  
13 Motion for Entry of an Order, Pursuant to 11 U.S.C. § 365(d), Extending Time to Assume or Reject  
14 Executory Contracts Through and Including January 31, 2024. Dkt. 430.

15 8. As of the Petition Date, the Debtor was party to more than 160 executory contracts,  
16 including software licenses, insurance agreements, and agreements related to employee benefits,  
17 among others.

18 9. The Receiver rejected 76 executory contracts by motion filed in the Receivership Case.

19 10. The Trustee has reviewed executory contracts, and has identified certain contracts that  
20 may be beneficial to the administration of the estate. The Trustee has engaged in negotiations regarding  
21 the assumption and assumption and assignment of certain contracts. The Trustee has filed a motion to  
22 assume and assign one such contract already.<sup>1</sup>

23 11. While the Trustee has been working diligently to review and analyze executory  
24 contracts, there are a few contracts for which she requires additional time to determine whether  
25 assumption or rejection is in the best interest of the estate. The contracts that remain subject to the

26 <sup>1</sup> On August 22, 2023, the Court granted the Trustee's motion to assume and assign the UKG Inc. contract, Dkt. 321.

Trustee's review principally relate to the Debtor's IT infrastructure and the Trustee's ongoing efforts to preserve the Debtor's business records. The Debtor's records and those of its affiliate Car Toys, Inc. ("Car Toys") are maintained on jointly held systems. The unwinding of those systems has proved difficult. The Trustee continues to work with Car Toys on a means to preserve business records and access to them for the estate and certain of the executory contracts are important to those efforts.

12. Specifically, the Trustee requires additional time to analyze the executory contracts identified on the attached Exhibit A ("Executory Contracts").<sup>2</sup>

13. By this Motion, the Trustee respectfully requests the entry of an order pursuant to 11 U.S.C. § 365(d) extending the deadline to assume or reject the Executory Contracts identified in Exhibit A through and including April 15, 2024.

#### EVIDENCE RELIED UPON

This Motion relies on the arguments set forth herein, the Declaration of Virginia Burdette filed in support of the Motion, the pleadings and records on file in this case, and the arguments of counsel, if any.

#### ARGUMENT

In recognition that the initial sixty (60) day period under 11 U.S.C. § 365(d) often imposes upon a Trustee an unrealistic and burdensome deadline, the statute gives the Court latitude to extend such period "for cause." 11 U.S.C. § 365(d); *see also In re Point Center Fin., Inc.*, 957 F.3d 990, 1000 (9th Cir. 2020) ("Section 365(d)(1) permits the bankruptcy court to grant a trustee 'additional time ... for cause'" to assume or reject executory contracts). As long as the motion to extend is made within the initial 60-day period to assume or reject executory contracts, the court may, if cause is found, grant the motion after the 60-day period. *See In re Southwest Aircraft Servs, Inc.*, 831 F.2d 848, 853 (9th Cir. 1987) ("we hold that if cause for an extension arises within the 60-day period and a motion for an extension is made within that period, a bankruptcy court may, even after the 60-day period has expired,

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<sup>2</sup> Some of the executory contracts have been prepaid or otherwise performed and the Trustee reserves all rights with respect to whether such contracts remain executory. The inclusion or exclusion of a contract on Exhibit A is not an admission or concession that such contract is executory within the meaning of § 365 of the Bankruptcy Code.

1 consider the debtor's motion and, if it finds there was sufficient cause at the time the motion was filed,  
2 grant the requested extension.”).

3 Here, cause exists to extend the time for the Trustee to assume or reject the Executory  
4 Contracts. The Trustee has worked diligently to analyze the Debtor’s more than 160 executory  
5 contracts, but requires additional time to analyze the few Executory Contracts identified in Exhibit A  
6 to determine which may have value and which can be rejected in an appropriate manner. The  
7 Executory Contracts principally relate to the Debtor’s IT infrastructure. The Trustee has continued to  
8 work to preserve the Debtor’s business records and maintain access to records that are essential to the  
9 administration of the estate. The Trustee efforts have been complicated, however, by the comingling  
10 of the Debtor’s records and the records of its affiliate, Car Toys. The Trustee is working to resolve  
11 these issues, and certain of the Executory Contracts may be necessary to the Trustee’s preservation  
12 and access efforts. An extension of time to assume or reject the Executory Contracts will protect and  
13 preserve the estate’s assets.

### 14 CONCLUSION

15 Based on the foregoing, the Trustee respectfully requests the entry of an Order, pursuant to  
16 Bankruptcy Code sections 365(d)(1), extending the time to assume or reject the Executory Contracts  
17 identified in Exhibit A through and including April 15, 2024 and for such other, further and different  
18 relief as this Court may deem just and proper.

19 Dated this 30th day of January, 2024.  
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/s/ Ruby A. Nagamine

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Trustee*

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## EXHIBIT A

1	DIGITAL FORTRESS	IT
2	MICROSOFT - AZURE CLOUD SERVICES	IT
3	MICROSOFT ENTERPRISE AGREEMENT (EA)	IT
4	MICROSOFT SERVER CLOUD ENROLLMENT (SCE)	IT
5	PALO ALTO	IT
6	VM WARE	IT
7	CISCO (SUPPORT)	IT
8	QUEST	IT

**CERTIFICATE OF SERVICE**

The undersigned declares as follows:

That she is a practice assistant in the law firm of K&L Gates LLP, and on January 30, 2024, she caused the foregoing document to be filed electronically through the CM/ECF system which caused Registered Participants to be served by electronic means, as fully reflected on the Notice of Electronic Filing.

I declare under penalty of perjury under the laws of the State of Washington and the United States that the foregoing is true and correct.

Executed on the 30th day of January, 2024 at Seattle, Washington.

/s/ Chloe Morse

Chloe Morse